IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION

CHAMBER SUMMONS NO.71 OF 2005
IN
PETITION NO.92 OF 2005

Petition for Succession Certificate in respect of Certain Debts and Securities belonging to Leonard Joseph Misquitta ..Deceased

Ann Leonard Misquitta Alia
Antoinette Annie Gloria ....Petitioner

Ms.S.U. Lakdawala for the Petitioner.

CORAM : S.J. VAZIFDAR, J.
DATED : 15TH FEBRUARY, 2006.

P.C. :

1. The Petitioner has taken out this Chamber Summons seeking permission to sell certain shares and deposit with the Accounts Officer a sum of Rs.2,79,379=66 ps. or any other sum equivalent to 1/3rd share of the sale proceeds of the said shares within two months from the date of the said sale.

2. In fact under Section 33-A of the Indian Succession Act, the minor son is entitled to a 2/3rd share, the parties being Indian Christian.

3. The Petitioner has been directed by the Testamentary Registrar to furnish justifying surety in the sum of Rs.2,79,376=66 ps. She however, has stated that she does not have resources to furnish such surety. It is in these circumstances, the present Chamber Summons has been taken out.

4. I am inclined to permit the Petitioner to comply with the directions of the Testamentary Registrar by selling the shares subject however to the conditions stipulated hereunder.

5. In the circumstances, the Chamber Summons is made absolute in terms of prayers (a), (b) and (c). However, in prayer (a) the amount shall not be Rs.2,79,366=66 ps. nor shall the minor's share be 1/3rd as stated in prayer (a). The amount shall be on the basis of 2/3rd of the sale proceeds. Further the sale shall be effected by an officer of this Court to be appointed by the Prothonotary & Senior Master. The 2/3rd of the sale proceeds shall after deduction of any charges in connection with the sale be deposited as per prayer (b) forthwith.